REMARKS

The present application has been carefully studied in view of the outstanding Office action dated April 8, 2008, and reconsideration of that Action is requested in view of the following comments.

Claims 1-13 and 17-22 are presently pending in this application. Claims 3-6, 11-13 and 17-22 stand withdrawn while remaining claims 1, 2 and 7-10 stand rejected for the reasons noted in the outstanding Action.

Applicant respectfully submits that the present invention defined in the rejected claims is neither shown nor suggested by the prior art taken alone or in combination with one another. Specifically claims 1, 2 and 7-10 are not rendered obvious under 35 USC §103(a) over the combination of Nielsen WO 02/38354 ("Nielsen") in view of Sun et al WO 02/34381 ("Sun"), Ohara et al US 4,283,308 ("Ohara") and Ashmead et al US 3,799,396 ("Ashmead"), for the following reasons.

The Examiner correctly concludes at page 4, lines 5-9 of the outstanding Office Action that Nielsen does not explicitly recite the claimed expression of claim 1 namely that "the conveying rate thereof varies periodically corresponding to a periodic function varying between a lower and an upper limiting value and whose periods are constant over time."

The Examiner argues (page 6, lines 12-18 of the Office Action) that "One of ordinary skill in the art would have had a reasonable expectation of success in utilizing the periodic function as claimed (in Claim 1) because the use of periodic functions for controllably varying the amounts of various components of a mixture in an effort for optimization and/or understanding the role that the amounts and type of each

component have on the mixture is well known and appreciated in these arts as illustrated by Ohara and Ashmead, and would produce predictable results when combined with the component mixing methods of Nielsen and/or Sun." Applicant's position is that these conclusions are based upon prohibited hindsight with the present disclosure as the blueprint for such unreasonable reconstruction of the prior art.

By way of background the problem to be solved by claimed invention is:

(1) to provide a process to cover the entire phase space (or selected portions of the space phase);

(2) addressing each point of the phase space exactly once; and

(3) avoiding "leaps" of conveying rates as such "leaps" lead to higher material consumption/equipment requirements.

As previously argued the following example illustrates the claimed invention in more detail.

In a three component system the conveying rate of components 1 and 2 is to vary periodically between 0 (lower limit) and 9 (upper limit). The conveying rate of component 3 is to increase monotonically from 0 to 9. The phase space in relation to the three components consists of compositions "000" to "999" where the first figure corresponds to the conveying rate of component 3, and the third figure corresponds to the conveying rate of component 1.

The variation of compositions over time is depicted in the attachment to this response. The variation of conveying rate of two conveying devices in the form of a periodic function varying between lower and upper limiting values and whose periods are constant over time has the following effects:

A) The entire phase space from 000 to 999 is being covered.

B) Each point of the phase space is addressed exactly once.

C) Control of conveying rates according to the invention does not require "leaps" (e.g. from 0 to 9 or from 9 to 0). This reduces material and/or equipment required to solve the task of the invention.

These specified technical advantages make the claimed invention non-obvious over the prior art.

It is well established that the mere fact the prior art may be modified to reflect features of the claimed invention does not make such modification, and hence the claimed invention, obvious unless the prior art suggests the desirability of such modification. Clearly it is impermissible to simply engage in a hindsight reconstruction of the claimed invention, and the references themselves must provide some teaching whereby applicant's combination would have been obvious. Under 35 U.S.C. § 103, both the suggestion and the expectation of success must be founded in the prior art, not in applicant's disclosure. Applicant respectfully disagrees with the Examiner as to why one skilled in the art with the knowledge of the references would selectively modify the references in order to arrive at the claimed invention herein. The Examiner's argument is clearly based on prohibited hindsight reconstruction. Simply stating that "One of ordinary skill in the art would have had a reasonable expectation of success ..." is not sufficient.

To solve the problem and starting with the teachings of Nielsen and Sun there is no motivation to combine those with the teachings of Ohara and Ashmead. Applicant agrees that the use of periodic functions for controllably varying the amounts of various

components of a mixture in an effort for optimization and/or understanding the role that the amounts and type of each component have on the mixture is well known. However, applicant strongly disagrees that employing such periodic functions to solve the problem of the instant invention was obvious as none of the prior art documents provides a clue or suggestion to the person skilled in the art as to how the problem is to be solved. Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure, which is not the case in the present situation.

Accordingly, for the reasons discussed above it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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